

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Victor E. Bradshaw,	)	
	)	
Plaintiff,	)	Case No. 1:04-CV-667
	)	
vs.	)	
	)	
Noble Agency Inc., et al.,	)	
	)	
Defendants.	)	

Order Adopting Report and Recommendation

On March 16, 2005, United States Magistrate Judge Timothy S. Black issued a Report and Recommendation in this matter. The Magistrate Judge recommended that the matter be remanded to the Lawrence County Court of Common Pleas, that Defendant Allstate Insurance Company's motion for partial dismissal and for a more definite statement be denied as moot, that Defendant Noble Agency Inc.'s motion to dismiss be denied as moot, and that this case be closed on this Court's docket. Defendants have objected to the Report and Recommendation pursuant to Rule 72(b) of the Federal Rules of Civil Procedure. The basis for their objection is that Plaintiff has not alleged facts that, if proved, could support a cause of action under Ohio law against Defendant Noble Agency Inc. The Court is obliged to consider *de novo* the portions of the Report and Recommendation to which Defendants have specifically objected, and it has done so. See Fed. R. Civ. P. 72(b).

The Court's task is complicated by the fact that Plaintiff is proceeding *pro se* in this action. His complaint is

inartfully drafted, and he has no facility with the use of legal terminology. The Court, like the Magistrate Judge, is persuaded that Plaintiff's allegations, if proved, may establish the liability of Noble Agency Inc., however, and is, thus, not persuaded that Noble may be dismissed so that this Court may exercise subject matter jurisdiction on the basis of diversity.

Plaintiff has alleged, and has clarified significantly in his response to Defendants' objections, that Noble Agency Inc. is responsible in some measure, and liable to Plaintiff, for obtaining insurance coverage different from that which Plaintiff contracted with it to secure for him. If those allegations are proved, Plaintiff may recover damages from Noble under Ohio law. Issues relating to the evidentiary basis for Plaintiff's claim or claims against Noble are, of course, properly reserved for summary judgment or trial. The Court does not suggest that Plaintiff will prove his allegations. Rather, the Court, construing Plaintiff's allegations liberally as it must, concludes that a claim or claim against Noble Agency Inc. may be teased out of those allegations.

For those reasons, the Court hereby **OVERRULES** Defendants' objections to the Report and Recommendation and **ADOPTS** the Report and Recommendation *in toto*. This action is hereby **REMANDED** to the Court of Common Pleas for Lawrence County, Ohio. Defendant Allstate's motion for partial dismissal and for a more definite statement (Doc. 2) are hereby **DENIED** as moot.

Defendant Noble's motion to dismiss (Doc. 10) is also **DENIED** as moot. This action is **CLOSED** on this Court's docket.

**IT IS SO ORDERED.**

/s/  
Sandra S. Beckwith, Chief Judge  
United States District Court